

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael R. Downes

Title: STRUCTURE OF THE
FARNESOID X RECEPTOR
LIGAND BINDING DOMAIN
AND METHODS OF USE
THEREFOR

Appl. No.: 10/535,042

Filing Date: 1/9/2006

Examiner: Alexander D. Kim

Art Unit: 1656

Confirmation Number: 2218

APPLICATION FOR PATENT TERM ADJUSTMENT

UNDER 37 C.F.R. §1.705

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request reconsideration of the patent term adjustment (PTA) of 374 days as indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) mailed on June 15, 2009. The total PTA should be **960 days** as determined below.

Upon review of the Patent Term Adjustment History using the Patent Application Information Retrieval (PAIR) database, Applicants note an inaccuracy of 586 days. The

Applicant delay is correctly identified as 17 days. However, PTO delay is incorrectly identified as 391 days coming from:

(a) 428 days (from "14 months from application date" on March 9, 2007 to PTO action of "Restriction Requirement" on April, 03, 2008).

In addition to the PTO delays identified above in (a), Applicants should be credited with an additional 586 days from March 15, 2008 (the three year pendency date) to December 22, 2009 (the Projected Patent Grant Date, six and one half months from the time of mailing of the Notice of Allowance).

EXPLANATION

The present application was filed based on PCT international application PCT/US2003/036137 which has national stage commencement date of May 15 2005. The three year period to end prosecution expires no later than May 15, 2008. In view of the projected patent grant date of December 22, 2009, **586 days** beyond May 15, 2008 should be charged to PTO delay. Thus, Applicants should be credited with an additional 586 days of PTO delay.

Therefore, the net Patent Term Adjustment should be **960 days** ($391+586=977$ USPTO days – 17 Applicant days). Accordingly, it is respectfully requested that the total patent term adjustment of **960 days** be issued in favor of the Applicants.

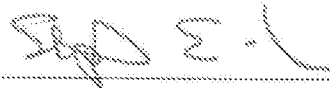
It is further requested that the fee of \$200.00 be waived in light of the above circumstances. However, if the Patent Office determines that the fee is required, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application for patent term adjustment can be achieved.

Applicants request further that a decision on this request be **deferred or delayed** until a final decision has been rendered in *Wyeth v. Dudas*, which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120.

Respectfully submitted,

Date: August 31, 2009



Stephen E. Reiter
Registration No. 31,192
Telephone: (858) 847-6711
Facsimile: (858) 792-6773

FOLEY & LARDNER LLP
Customer Number: 30542
P.O. Box 80278
San Diego, CA 92138-0278